

# HOUSE . . . . . No. 742

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By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty relative to the allocation of certain settlement proceeds by the Superior Court. The Judiciary.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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AN ACT GRANTING DISCRETION TO THE SUPERIOR COURT TO ALLOCATE CERTAIN SETTLEMENT PROCEEDS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 231 of the General Laws, as appearing in the 2002  
2 Official Edition, is hereby amended by inserting after section 72,  
3 the following section:—

4 Section 72A. In any action in which an injured person enters  
5 into a settlement with, or obtains a judgment upon trial from a  
6 third party and benefits for his injuries have been paid under  
7 chapter one hundred and fifty-two, and the injured person and the  
8 insurer paying said benefits do not agree to the amount each is  
9 entitled to recover out of such settlement or judgment, there shall  
10 be a just and reasonable apportionment thereof in accordance with  
11 this section. If the settlement, judgment or funds available to sat-  
12 isfy the judgment are less than the amount of plaintiff's total dam-  
13 ages, the court or other authority authorized to approve  
14 settlements under section fifteen of chapter one hundred and fifty-  
15 two may reduce after a hearing the amount of said insurer's lien in  
16 the action, after evaluation of the plaintiff's total cognizable dam-  
17 ages at law. Except in the case of a final judgment, where the  
18 plaintiff is dissatisfied with the apportionment by the court, he  
19 may withdraw his consent to the settlement.